REMARKS:

Applicant has carefully studied the nonfinal Examiner's Action and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

Drawings

The drawings have been objected to under 37 CFR 1.83(a). The Office states that the conductive and nonconductive portions on separate electrode members as recited in claim 3 are not shown in the drawings.

A proposed drawing correction to Figure 10 and Figure 11 has been presented in which elements 140-143 have been added to more clearly illustrate the present invention. Drawing elements 68-71 are identified at pg. 15, line 15 and line 21 as electrodes. Drawing elements 80-83 are identified at pg. 23, line 5, as conductive tips. Drawing element 84 is identified at pg. 16, line 7 as being the proximal end of the electrodes. Pg. 16, beginning at line 7 additional discloses the electrode members having insulation extending from the proximal end and that this insulation can extend all the way from the proximal end 84 to the distal end 80, leaving only enough electrode surface exposed to allow proper energy transfer from the electrode members to the target tissue. As such, the amended specification discloses the added elements 140-143 insulation between the proximal end and the distal end, leaving only enough electrode surface to allow proper energy transfer to the tissue. Therefore, the drawings as amended disclose a conductive portion and a nonconductive portion on separate electrode members. As an example, conductive portion 82 is located on electrode 68 and nonconductive portion 140 is located on electrode 70. As such, conductive portion 82 and nonconductive portion 140 are located on separate electrode members.

Claim Rejections – 35 U.S.C. § 102

Applicant acknowledges the quotation of 35 U.S.C § 102(e).

Claim 1, 3, 13, 28, 33 and 61 stand rejected under 35 U.S.C § 102(e) as being anticipated by Hofmann (U.S. Patent No. 6,009,345). The Office contends with reference to Figure 6 of Hofmann, that Hofmann discloses a device for manipulating a molecule in vivo where the sum of electrode members and conductive portions is at least three, having two rectangular electrode members 124, 126 where conductive portions are separate from nonconductive portions, first and second electromagnetic fields are generated to manipulate a molecule and cause cell permeability via different voltages, the portions are on separate electrode members.

Applicant respectfully traverses the finding of the Office.

Independent Claim 1 has been amended to clarify that which is being claimed and is not to be interpreted as being substantially related to patentability. With reference to Figure 10, the device of the present invention comprises at least two generally rectangular striplike electrode members having at least one conductive portion, whereby the conductive portions are independently addressable by a source of electrical energy.

By contrast, Hofmann describes with reference to Figure 6, the electrodes, 126, 128 and 130, as conductive portions to which a source of electrical energy is connected. However, these three conductive portions, 126, 128 and 130 described by Hofmann are not independently addressable. The application of a voltage pulse to electrode 126 would also result in the application of a voltage pulse to electrodes 128 and 130. Hofmann further verifies the interconnection of 126, 128 and 130 at col. 8, lines 60-62, stating that electrode 126 is constructed as an assembly of small closely spaced opposed electrodes 128 and 130. As such, the electrodes, or conductive portions, as described by Hofmann are not independently addressable, but instead, addressing one electrode also results in the addressing of additional electrodes.

In can also be seen with reference to Figure 6 that Hofmann does not describe or suggest generally rectangular striplike electrode members as disclosed and claimed by the present invention.

For the reasons cited above, Applicant believes that amended independent Claim 1 is patentable over Hofmann (U.S. Patent No. 6,009,345) and is believed to be in condition for allowance.

Claims 3, 13, 28, 33, 61 are dependent upon claim 1, and are therefore allowable as a matter of law.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested.

Very respectfully,

SMITH & HOPEN

By: Molly S. Sauter

Dated: October 28, 2003

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CERTIFICATE OF FACSIMILE TRANSMISSION
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment A is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3763, Attn.: Michael J. Hayes, (703) 872-9302 on October 28, 2003.

Dated: October 28, 2003

Deborah Preza